

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/785,388 Confirmation No.: 6576
Applicant : Leatherbury et al.
Filed : 02/23/2004
TC/A.U. : 3733
Examiner : Reimers, Annette R.
For : BONE AND CARTILAGE IMPLANT DELIVERY DEVICE
Docket No. : 121-02
Customer No. : 23713

CERTIFICATE OF ELECTRONIC MAILING

I hereby certify that this correspondence is being deposited with the United States Patent and Trademark Office electronically.

October 5, 2006

Date

/bkroge/

B. Kroge

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
Arlington, VA 22313-1450

Sir:

In response to the Restriction Requirement dated August 25, 2006, please enter the following response.

The Examiner has divided the claims into six groups and requires an election of one of the groups.

- I. Claims 1-10 drawn to an implant delivery device
- II. Claims 11-15 drawn to a cutting device
- III. Claims 16-20 drawn to an implant capsule loader
- IV. Claims 21-23 drawn to an implant delivery system
- V. Claims 24-25 drawn to a method of delivering a bone or cartilage implant
- VI. Claims 26-29 drawn to a kit comprising the implant delivery device

Applicants hereby elect prosecution of Group I (claims 1-10 drawn to an implant delivery device) with traverse. Groups V and VI should be included with Group I because they are directed to the implant delivery device as claimed in Group I. For example, the kit claims

(Group VI) comprise the implant delivery device recited in Group I, and the method claims (Group V) are drawn to delivering an implant using the delivery device of Group I. Groups V and VI contain all of the limitations of the Group I device claims. Furthermore, a search of all three groups would not present an additional search burden upon the Office. Therefore, Applicants submit that Claims 1-10 and 24-29 should be considered in the same application.

In addition, the Examiner has determined there are four species of the implant delivery device presented and requires an election of a single species for prosecution on the merits. Applicants elect the species in group A, as depicted in figures 1-3.

Applicants believe the following claims read upon the elected species: claims 1-3, 5, 8 and 24-29.

In response to previous Restriction Requirements and an office action on the merits (mailed February 22, 2006), some claims in the present application have been withdrawn or amended. Applicants request that the Examiner consider the listing of claims as presented in the Response filed on June 6, 2006. Claims 1-3, 5, 8 and 24-29 are currently pending with the other claims having been withdrawn.

Conclusion

This Response is accompanied with a Petition for Extension of Time of one month which authorizes the charge of \$60.00 to deposit account 07-1969. If this is incorrect, please credit any overpayment or deduct any deficiency to that same deposit account.

Respectfully submitted,

/michaeljcurtis/

Michael J. Curtis
Reg. No. 54,053

GREENLEE, WINNER AND SULLIVAN, P.C.
4875 Pearl East Circle, Suite 200
Boulder, CO 80301
Telephone (303) 499-8080
Facsimile: (303) 499-8089
Email: winner@greenwin.com

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